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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,961	07/14/2003	Mark Damon Lyon		4465

7590 08/01/2005
Mark Lyon
3962 Denmark Avenue
Eagan, MN 55123

EXAMINER

JACKSON, ANDRE K

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,961

Applicant(s)

LYON, MARK DAMON

Examiner

André K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-20 and 22 is/are rejected.
- 7) ☒ Claim(s) 21 and 23-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 15-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider.

Regarding claim 15, Schneider discloses in the patent entitled "Medicine glass" a receptacle having a main compartment provided with an open top approximately as great in area as the maximum cross sectional area of the compartment and having (a) graduations representing macro measurement amounts of a predetermined capacity for a diluent on the side wall of the main compartment and having (b) means to measure micro amounts of a predetermined capacity for a concentrate which involves the bottom wall of the main compartment. Schneider also discloses that depression (17) may have the same capacity or a different capacity than the other depressions (Figure 1, claim 1).

Regarding claim 16, Schneider discloses where the means to measure micro amounts of a predetermined capacity includes a supplemental measurement depression formed in at least the bottom wall of the main compartment (Figure 1).

Regarding claim 17, Schneider discloses where the supplemental measurement depression includes at least one measurement graduation (Figure 1).

Regarding claim 18, Schneider discloses where there is a plurality of the supplemental measurement depressions (Figure 1).

Regarding claim 19, Schneider discloses where the supplemental measurement depressions communicate with one another (Figure 1).

Regarding claim 20, Schneider discloses where the means to measure micro amounts of a predetermined capacity involves reorientation of the receptacle such that both the bottom wall and side wall act as a supplemental measurement depression (Page 1, lines 63-82).

Regarding claim 22, Schneider discloses where the supplemental measurement depression includes at least one micro measurement graduation means (Figure 1).

3. Claims 21 and 23-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed 06/12/05 have been fully considered but they are not persuasive. Applicant has argued that Schneider does not disclose that there is a predetermined proportioned solution formed between the micro and macro amounts. Schneider's invention was to alleviate the present practice where the commodity was measured in a spoon and then placed in a glass tumbler where it was commonly mixed with water to give the proper dilution. Schneider found that since the spoons were made of metal the commodities were affected by the metal of the spoon and would likely destroy the spoon or produce poisons. Schneider found that with the patented invention in the preferred embodiment the liquid maybe deposited in the measuring receptacle without removing the liquid (concentrate) from the container and mixed with water (diluent) inside the container. Therefore, Schneider does disclose that there is a predetermined proportioned solution formed between the micro and macro amounts.
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (571) 272-2196. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.J.

July 21, 2005


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800